IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 2ND FEBRUARY 2007 / 13TH MAGHA 1928

OP.No. 1491 of 2002(C)

PETITIONER:

JOHN K.THOMAS, K.B. SAW MILL,
KUNNAPPALLIL HOUSE, KUZHIMATTOM POST,
PANACHIKKADU VILLAGE, KOTTAYAM DISTRICT.

BY ADV. SRI.P.KURUVILLA JACOB

RESPONDENTS:
---

1. THE DIVISIONAL FOREST OFFICER,
KOTTAYAM.

2. THE DEPOT RANGE OFFICER,
PARAMPUZHA, KOTTAYAM.

3. THE TAHSILDAR, REVENUE RECOVERY,
KOTTAYAM.

4. THE VILLAGE OFFICER,
PANACHIKKADU VILLAGE, PANACHIKKADU POST,
KOTTAYAM DISTRICT.

BY GOVERNMENT PLEADER SMT. R. BINDU.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 02/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP 2561 OF 2002 IN OP 1491 OF 2002

DISMISSED

2.2.2007 SD/-C.N.RAMACHANDRAN NAIR, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS:

EXT. P1 TRUE COPY OF REGISTERED LETTER DATED 18.12.98 OF THE 2ND RESPONDENT COMMUNICATED TO THE PETITIONER.

EXT.P2 TRUE COPY OF PETITIONER'S LETTER DATED 21.12.1998 SUBMITTED BEFORE THE MINISTER OF FOREST.

EXT.P3 TRUE COPY OF ORDER DATED 16.11.98 OF THE SECRETARY OF THE FOREST DEPARTMENT EXTENDING THE CHALLAN PERIOD FOR TWO MONTHS FROM 16.11.98

EXT.P4 TRUE COPY OF REGISTERED NOTICE DATED 18.12.2000 OF THE FIRST RESPONDENT COMMUNICATED TO THE PETITIONER.

EXT.P5 TRUE COPY OF PETITIONER'S REPLY DATED 19.1.2001 SUBMITTED BEFORE THE 1ST RESPONDENT IN ANSWER TO EXT.P1 NOTICE.

EXT.P6 TRUE COPY OF REGISTERED NOTICE DATED 21.3.2001 OF THE FIRST RESPONDENT COMMUNICATED TO THE PETITIONER.

EXT.P7(a) TRUE COPY OF NOTICE DATED NIL OF THE THIRD RESPONDENT COMMUNICATED TO THE PETITIONER ON 31.12.2001 UNDER SECTION 7 OF THE R.R. ACT.

EXT.P7(b) TRUE COPY OF NOTICE DATED NIL ISSUED TO THE PETITIONER ON 31.12.2001 BY THIRD RESPONDENT UNDER SECTION 34 OF THE R.R. ACT.

EXT.P8 TRUE COPY OF PETITIONER'S COMPLAINT DATED 4.1.2002 SUBMITTED BEFORE RESPONDENTS 1 AND 3.

FIRST RESPONDENT'S EXHIBITS:

EXT.R1(a) TRUE COPY OF THE UNDERTAKING FURNISHED BY THE PETITIONER DATED 10.11.1998

EXT.R1(b) TRUE COPY OF THE NOTIFICATION DATED 12.11.1996

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

O.P. NO. 1491 OF 2002

Dated this the 2nd day of February, 2007

JUDGMENT

Petitioner is challenging Ext.P4 order whereunder the Forest Department has demanded differential cost on account of petitioner's failure to lift the timber purchased by him. Petitioner has conceded that petitioner did not make payment for the purchased articles and lift the materials in time. However, petitioner's case is that petitioner applied for extension of time for compliance with tender conditions and without granting time, retender was conducted. It is seen from the document annexed to counter affidavit that petitioner accepted reauction. I do not think there is any scope for interference because in the first place tender conditions did not provide for extension of time for compliance. Secondly when petitioner did not challenge reauction conducted by department after cancellation of tender following the petitioner's failure to lift the materials on making payment, differential price is the loss which the department could recover under tender conditions. Since the demand is in terms of the tender conditions

accepted by the petitioner, there is no scope for interference and O.P. is dismissed.

(C.N.RAMACHANDRAN NAIR)
Judge